

**IN RE: MICHELLE A. MASSICOTTE**  
**NO. BD-2012-055**

**S.J.C. Order of Term Suspension and Reinstatement entered by Justice Botsford on  
March 28, 2013.<sup>1</sup>**

**SUMMARY<sup>2</sup>**

On May 16, 2012, the respondent, Michelle A. Massicotte, was suspended from the practice of law by the United States Patent and Trademark Office for twenty-four months, with leave to apply for reinstatement at any time after two months from the date of the final order, and with a twenty-four month period of probation after reinstatement. The circumstances resulting in the respondent's discipline were as follows.

The respondent practices before the USPTO in trademark and non-patent matters. The respondent was an attorney of record in three pending trademark applications for two clients. The USPTO e-mailed a non-final action in each of the three trademark matters to respondent's law firm. Two of the office actions for the same client shared the same deadline, which fell on a holiday. The respondent received the office actions prior to the expiration of their respective response periods. Because the respondent did not respond to the actions in a timely manner, each of the trademark applications became abandoned as a matter of law. The respondent asserts that the abandonment of the trademark applications was unintentional.

The respondent filed a petition to revive each of the abandoned trademark applications using an electronic petition format that indicated that the USPTO non-final actions had not been received prior to the expiration of the respective response periods. The USPTO granted the petitions and revived the three trademark applications based, in part, on the respondent's representations that she had not received the non-final actions prior to the expiration of the response periods. Two of the three trademark applications were subsequently expressly abandoned by the client, and the third application was subsequently allowed to be abandoned by the client per operation of law. The respondent provided evidence sufficient to satisfy the USPTO that there was a nexus between the respondent's conduct and a medical condition, namely, at all relevant times, respondent was enduring a high risk pregnancy and complications associated with the pregnancy while handling a large volume of work at her law firm.

The respondent's conduct in neglecting matters entrusted to her and giving false or misleading information to the USPTO was in violation of applicable provisions of the USPTO Code of Professional Responsibility. The USPTO did not find the respondent's conduct to be knowing or intentional. In mitigation, the respondent had no prior disciplinary history before the USPTO; the conduct appears to have been aberrational; at all relevant times, the respondent was enduring a high-risk pregnancy with complications; and the respondent cooperated fully in the investigation and resolution of the matter.

On June 18, 2012, bar counsel filed a petition for reciprocal discipline with the Supreme Judicial Court for Suffolk County. On December 4, 2012, the respondent was reinstated to the bar of the USPTO. The parties assented to an order of reciprocal discipline.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

On March 28, 2013, the Court (Botsford, J.) entered an order suspending the respondent for twenty-four months, retroactive to July 1, 2012, with the respondent to be actually suspended for the first two months and the remaining twenty-two months to be stayed. In the same order, the Court also reinstated the respondent to the Massachusetts bar, retroactive to the date of her reinstatement by the USPTO.